

OCT 01 2018Clerk, U.S. Courts
District Of Montana
Missoula Division**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION****JONATHON COOK,****Petitioner,****vs.****JAMES SALMONSEN,****Respondent.****CV 18-122-M-DLC-JCL****ORDER**

United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations on July 11, 2018, recommending that the Court deny Petitioner Jonathon Cook's Petition for Writ of Habeas Corpus (Doc. 1) and a certificate of appealability. (Doc. 4.) Cook failed to timely object to the Findings and Recommendations, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews for clear error those findings and recommendations to which no party objects. *See Thomas v. Arn*, 474 U.S. 140, 149–53 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been made.” *Wash. Mut., Inc. v. United States*, 856 F.3d 711, 721 (9th Cir. 2017) (citation omitted).

Having reviewed the Findings and Recommendation (Doc. 4), the Court

finds no clear error in Judge Lynch's conclusion that Cook's Petition should be denied because Cook failed to allege a violation of a federally protected right, as required by 28 U.S.C. § 2254. "[I]t is not the province of the federal habeas court to reexamine state court determinations on state law questions." *Estelle v. McGuire*, 502 U.S. 62, 67–68 (1991). Cook does not allege a violation of a federally protected right but rather that the state court erred as a matter of state law in revoking his sentence. Nor did Judge Lynch clearly err in recommending that a certificate of appealability be denied, as Cook has made no "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

Accordingly, IT IS ORDERED that:

(1) Judge Lynch's Findings and Recommendations (Doc. 4) are ADOPTED IN FULL.

(2) Cook's petition (Doc. 1) is DENIED.

(3) A certificate of appealability is DENIED.

(4) The Clerk of Court is directed to enter judgment in favor of the Respondent and against the Petitioner.

DATED this 1st day of October, 2018.



Dana L. Christensen, Chief Judge
United States District Court